

## RBS and RUS, USDA

## § 4280.123

(i) and with appendices C and D, paragraph (i);

(viii) Contract review and concurrence in accordance with § 1780.61(b) of this title;

(ix) Owner's contractual responsibility in accordance with § 1780.68 of this title; and

(x) Further contract provisions concerning remedies, termination, surety, equal employment opportunity, anti-kickback, records, State energy conservation plan, change orders, Agency concurrence, retainage, and other compliance requirements must be met in accordance with § 1780.75 of this title.

(4) *Obtaining bids and selecting a contractor.* The applicant may select a contractor based on competitive sealed bids, competitive negotiation, or non-competitive negotiation as described in § 1780.72(b), (c), or (d) of this title.

(5) *Contract award.* Applicants awarding contracts must comply with § 1780.70(h) of this title.

(6) *Contracts awarded prior to applications.* Applicants awarding contracts prior to filing an application must comply with § 1780.74 of this title.

(7) *Contract administration.* Contract administration must comply with § 1780.76 of this title. If another authority, such as a Federal or State agency, is providing funding and requires oversight of inspections, change orders, and pay requests, the Agency may accept copies of their reports or forms as meeting oversight requirements of the Agency.

### § 4280.120 RES and EEI grantee requirements.

(a) A Letter of Conditions will be prepared by the Agency, establishing conditions that must be understood and agreed to by the applicant before any obligation of funds can occur. The applicant must sign Form RD 1942-46, "Letter of Intent to Meet Conditions" and Form RD 1940-1, "Request for Obligation of Funds," if they accept the conditions of the grant.

(b) The applicant must complete, sign, and return the Form RD 4280-2. The grantee must abide by all requirements contained in Form RD 4280-2, this subpart, and any other applicable Federal statutes or regulations. Failure to follow these requirements may

result in termination of the grant and adoption of other available remedies.

(c) Where applicable, the grantee shall provide to the Agency a copy of the executed power purchase agreement within 12 months from the date that the grant agreement is executed, unless otherwise approved by the Agency.

### § 4280.121 Servicing grants.

(a) *General.* RES and EEI grants will be serviced in accordance with the Departmental Regulations, 7 CFR part 1951, subparts E and O of this title, and Form RD 4280-2.

(b) *Change of contractor or vendor.* After an award has been made, the recipient of the award can request to change a contractor or vendor if the technical merit score for the project remains the same or is higher. Prior to changing a contractor or vendor, the recipient must submit to the Agency a written request providing information that allows the Agency to re-score the project's technical merit. If the Agency determines that the project achieves the same or higher technical merit score, the recipient may make the change. No additional funding will be available from the Agency if costs for the project have increased. If the Agency determines that the project does not achieve the same or higher technical merit score, the change will not be approved.

## RENEWABLE ENERGY SYSTEM AND ENERGY EFFICIENCY IMPROVEMENT GUARANTEED LOANS

### § 4280.122 Borrower eligibility.

To receive a RES or EEI guaranteed loan under this subpart, a borrower must meet the criteria specified in §§ 4280.109 and 4280.112.

### § 4280.123 Project eligibility.

For a RES or EEI project to be eligible to receive a guaranteed loan under this subpart, the project must meet each of the criteria, as applicable, specified in § 4280.113(a) through (j). In addition, guaranteed loan funds may be used for necessary capital improvements to an existing renewable energy system.